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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/559,673	12/18/2006	Cornelius Meyer De Villiers	P08803US00/BAS	5929

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EXAMINER

BURGESS, JOSEPH D

ART UNIT	PAPER NUMBER
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3626

NOTIFICATION DATE	DELIVERY MODE
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10/06/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

iplaw@stites.com

Office Action Summary	Application No. 10/559,673	Applicant(s) DE VILLIERS ET AL.	
	Examiner JOSEPH BURGESS	Art Unit 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>12/06/2005, 04/08/2010</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

1. This action is in reply to application 10/559673 filed on 12/08/2006. Claims 1-20 are currently pending and have been examined.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.
4. Claim 1 recites "a statistical weight to be given to the fourth number". The fact that statistical weighting is applied to a number is mentioned in the specification on page 2, lines 10 and 25, and page 7, line 15. However, the description provided does not give one of ordinary skill in the art any clue as to what type of statistical weighting method is used. Therefore it is unclear what method the applicant expects one of ordinary skill in the art to apply to produce a fourth number that is statistically weighted. All claims dependent on this claim are rejected for the same reasons.
5. Claim 7 recites "a check digit calculated by the Lunz method". This method is mentioned in the specification on page 3, line 14, and page 7, line 1. However, there is no explanation by the applicant as to how this method is used and the Examiner cannot find a reference to a "Lunz

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method" for calculating check digits in any other known references. Another well known method of calculating check digits is called the "Luhn algorithm" and, for the purposes of examination, the Examiner will interpret applicant's limitation as reading on this algorithm.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
8. Claims 1-20 include method steps involving providing record sets that include numbers which are associated or reference medical information. It is unclear how this medical information is used in the steps of the method as the medical information appears to be non-functional descriptive material that is not connected to how the steps of the method are performed. Therefore, the Examiner will interpret, in general, that the instant application method steps are providing sets of numbers that reference any information. All claims dependent on these claims are rejected for the same reasons.
9. Claim 3 recites the record sets will be transmitted to "wherever required". The term "wherever" is a relative term which renders the claim indefinite. The term "wherever" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.
10. Claims 5 and 6 recite "the first number". Claim 7 recites "the second number". Claim 9 recites "the third number". There is insufficient antecedent basis for these limitations in the claims.

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11. Claim 12 recites “a list of third unique numbers”. Claims 13 and 14 recites similar limitations. It is unclear if these unique numbers are the same or different from the unique numbers from earlier claims.
12. Claim 16 recites “three unique numbers”. Claim 17 recites similar limitations. It is unclear if these unique numbers are the same or different from the unique numbers from earlier claims.
13. Claim 20 recites “the availability of funds is retrieved from the second person's medical aid or bank account to cover the costs indicated by the budgeted value.” It is unclear what or whom is retrieving the availability of funds.

Claim Rejections - 35 USC § 101

14. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.
15. Claims 1-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.
16. Claims 1-20 are directed to a method. Based upon consideration of all of the relevant factors with respect to the claims as a whole, these claims are held to assert an abstract idea, and are therefore rejected as ineligible subject matter under 35 U.S.C. 101. The rationale for this finding centers on the fact that the applicant has claimed method steps that merely involve a machine nominally, insignificantly, or tangentially related to the performance of the steps (e.g. data gathering). Additionally, the claimed method steps do not involve the transformation of an article. A “particular” machine or apparatus means that the method involves a specific machine, not any

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and all machines. This ensures that the machine imposes real world limits on the claimed method by limiting the claim scope to a particular practical application. Use of the concept, as expressed in the method, would effectively grant a monopoly over the concept. Both known and unknown uses of the concept are covered and can be performed through any existing or future devised machinery, or even without any apparatus.

Claim Rejections - 35 USC § 103

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

18. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ouchi (US 2003/0061121 A1).

19. **Claim 1:**

Ouchi, as shown, discloses the following limitations:

- *providing a first record set including a first unique number* (see at least figure 1 and paragraphs 0010);
- *a second unique number* (see at least figure 1 and paragraphs 0010);
- *a third unique number* (see at least figure 1 and paragraphs 0010);
- *a fourth number* (see at least figure 1 and paragraphs 0010);
- *providing a second record set associated with the first record set, the second record set including a code* (see at least figure 1 and paragraphs 0010);
- *a statistical weight to be given to the fourth number* (see at least paragraph 0024, multiplying value by a factor);

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- *providing a third record set associated with the second record set, the third record set including a description reference of the code* (see at least figure 1 and paragraphs 0010);
- *saving the first record set, the second record set, and the third record set in a database* (see at least paragraphs 0024-0025).

Ouchi does not explicitly recite the limitations that the numbers are *associated with a first person, associated with a second person, associated with a specific question contained in a list of questions, being an answer to the specific question, a question code, and a description reference of the question code*. However, the limitations are drawn to non-functional descriptive material and are not functionally involved with the method. The recited method steps would be performed the same regardless of what specific data with which the numbers are associated or describing. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); *In re Ngai*, 367 F.3d 1336, 70 USPQ2d 1862 (Fed. Cir. 2004). See also MPEP 2106.

20. Claim 2:

Ouchi discloses the limitations as shown in the rejections above. Furthermore, Ouchi discloses the limitation of *providing a fourth record set* (see at least figure 1 and paragraphs 0010).

Ouchi does not explicitly recite the limitation that the numbers are *identifying financial data*. However, the limitation is drawn to non-functional descriptive material and is not functionally involved with the method. The recited method step would be performed the same regardless of what specific data with which the numbers are associated or describing. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); *In re Ngai*, 367 F.3d 1336, 70 USPQ2d 1862 (Fed. Cir. 2004).

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See also MPEP 2106.

21. Claim 3:

Ouchi discloses the limitations as shown in the rejections above. Furthermore, Ouchi discloses the limitation of *any of the first record set, the second record set, the third record set or the entire database are able to be jointly or separately transmitted to wherever required* (see at least paragraphs 0024-0025).

22. Claims 4-6:

Ouchi discloses the limitations as shown in the rejections above. Ouchi does not explicitly recite the limitations of *the first person is a medical practitioner, the first number is associated with the medical practitioner's national registration number and the medical practitioner's specialist qualifications and experience*. However, the limitations are drawn to non-functional descriptive material and are not functionally involved with the method. The recited method steps would be performed the same regardless of what specific data with which the numbers are associated or describing. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); *In re Ngai*, 367 F.3d 1336, 70 USPQ2d 1862 (Fed. Cir. 2004). See also MPEP 2106.

23. Claim 7:

Ouchi discloses the limitations as shown in the rejections above. Furthermore, Ouchi discloses the limitation of *the second number includes a check digit* (see at least paragraph 0009).

Ouchi does not explicitly recite the limitation of *a check digit calculated by means of the Luhn method*. However, the Examiner takes **Official Notice** that it is old and well known in the art to use the Luhn algorithm to calculate check digits in numbering systems. It would have been

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obvious to one of ordinary skill in the art at the time of invention to modify Ouchi with use of the Luhn algorithm for calculating check digits, merely as a matter of design choice, in order to distinguishing valid numbers from collections of random digits, since doing so could be performed readily and easily by any person of ordinary skill in the art with neither undue experimentation nor risk of unexpected results.

24. Claims 8-9:

Ouchi discloses the limitations as shown in the rejections above. Ouchi does not explicitly recite the limitations of *the second person is a medical patient* and *the fourth number is adapted to indicate a true or false answer to a question associated with the third number*. However, the limitations are drawn to non-functional descriptive material and are not functionally involved with the method. The recited method steps would be performed the same regardless of what specific data with which the numbers are associated or describing. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); *In re Ngai*, 367 F.3d 1336, 70 USPQ2d 1862 (Fed. Cir. 2004). See also MPEP 2106.

25. Claim 10:

Ouchi discloses the limitations as shown in the rejections above. Furthermore, Ouchi discloses the limitation of *the first record set includes a fifth number* (see at least figure 1 and paragraphs 0010).

Ouchi does not explicitly recite the limitation that the numbers are *associated with a date and time that the first person examined the second person*. However, the limitation is drawn to non-functional descriptive material and is not functionally involved with the method. The recited method step would be performed the same regardless of what specific data with which the

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numbers are associated or describing. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); *In re Ngai*, 367 F.3d 1336, 70 USPQ2d 1862 (Fed. Cir. 2004). See also MPEP 2106.

26. Claim 11:

Ouchi discloses the limitations as shown in the rejections above. Furthermore, Ouchi discloses the limitation of *the first record set includes a sixth number adapted to be a check digit for verifying the validity of any other number contained in the first record set* (see at least paragraph 0009).

27. Claim 12:

Ouchi discloses the limitations as shown in the rejections above. Furthermore, Ouchi discloses the limitation of *the second record set includes a list of third unique numbers* (see at least figure 1 and paragraphs 0010).

Ouchi does not explicitly recite the limitation that the numbers are *associated with all possible questions that can be asked*. However, the limitation is drawn to non-functional descriptive material and is not functionally involved with the method. The recited method step would be performed the same regardless of what specific data with which the numbers are associated or describing. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); *In re Ngai*, 367 F.3d 1336, 70 USPQ2d 1862 (Fed. Cir. 2004). See also MPEP 2106.

28. Claims 13-15:

Ouchi discloses the limitations as shown in the rejections above. Ouchi does not explicitly recite

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the limitations of *each third unique number is associated with at least one further question which should be asked or answered, is associated with at least one further question which need not be asked or answered, and includes a reference to a publication containing a description of the question code*. However, the limitations are drawn to non-functional descriptive material and are not functionally involved with the method. The recited method steps would be performed the same regardless of what specific data with which the numbers are associated or describing. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); *In re Ngai*, 367 F.3d 1336, 70 USPQ2d 1862 (Fed. Cir. 2004). See also MPEP 2106.

29. Claim 16:

Ouchi discloses the limitations as shown in the rejections above. Furthermore, Ouchi discloses the limitation of *the fourth record set includes three unique numbers* (see at least figure 1 and paragraphs 0010).

30. Claims 17-20:

Ouchi discloses the limitations as shown in the rejections above. Ouchi does not explicitly recite the limitations of *the three unique numbers are respectively associated with a budgeted item, a budgeted value, and availability of funds, the budgeted item is a type of treatment or medication required by the second person, the budgeted value is a cost associated with the type of treatment or medication, and the availability of funds is retrieved from the second person's medical aid or bank account to cover the costs indicated by the budgeted value*. However, the limitations are drawn to non-functional descriptive material and are not functionally involved with the method. The recited method steps would be performed the same regardless of what specific data with which the numbers are associated or describing. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703

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F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); In re Lowry, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); In re Ngai, 367 F.3d 1336, 70 USPQ2d 1862 (Fed. Cir. 2004). See also MPEP 2106.

Conclusion

Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to **JOSEPH BURGESS** whose telephone number is **(571)270-5547**. The Examiner can normally be reached on Monday-Friday, 9:00am-5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, **ROBERT MORGAN** can be reached at **(571)272-6773**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **(866)217-9197** (toll-free).

/J.B./

Examiner

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//Neal R Sereboff//
Examiner, Art Unit 3626